

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA ROBINSON, on behalf of) Case No.: 2:18-cv-441
themselves and all other similarly situated)
consumers,)
)
Plaintiff,)
)
vs.)
)
ENHANCED RECOVERY COMPANY d/b/a)
ERC,)
)
Defendant.)

**DEFENDANT'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Defendant Enhanced Recovery Company (“ERC”), by and through its undersigned counsel, hereby moves for final approval of class settlement in the amount of \$138,000, as well as administration fees and plaintiff’s attorney fees,¹ as defined by the written settlement agreement previously submitted to this Court.

All identified Class Members shall be entitled to receive monetary relief that effects both a return of the telephone convenience fees challenged in this case and an additional pro rata share

¹ Class representative plaintiff Joshua Robinson has filed a separate Motion for Approval of Attorney's Fees and Representative's award [Docket 93] ("Fee Motion"). Pursuant to the terms of the Settlement Agreement that was previously filed with the Court [Docket 91-3 at pp. 2-16], ERC does not object to the counsel fee award of \$72,000 (inclusive of Class Administration fees paid to the date of the settlement agreement, as set forth in Plaintiff's Fee Motion and the prior agreement of the parties) and an individual representative award of \$3,000. ERC notes that it did not receive a draft of the Fee Motion prior to filing and did not voice any objections, revisions or queries to the language of the Fee Motion prior to filing. ERC will not file a separate Fee Motion and does not intend to provide a response to the Fee Motion unless expressly directed to do so by the Court.

of the Settlement Fund. ERC seeks final approval of the class action settlement² for the reasons set forth in the accompanying memorandum of law.

Dated: May 27, 2020

Respectfully Submitted,

/s/ William F. McDevitt

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² ERC and Plaintiff attempted to file a joint motion for approval, but Plaintiff's counsel rejected ERC's proposed revisions, filing a revised draft Motion, the original draft Memorandum of Law and the original draft Order. In his Motion, Plaintiff casts aspersions upon ERC's revisions as seeking to advance issues in another lawsuit. In its Memorandum, Plaintiff has failed to disclose to this Court the actual number of class members, which has been subject to a reasonable rate of attrition due to the inability of the Class Administrator to locate a number of class members. The decreased class size will increase the amount of the *pro rata* distribution to class members. Plaintiff's proposed form of Order does not include the disclosures that the parties indicated would be made in its original Motion to approve the instant settlement. *See* Docket 91-3 at pp. 17-20 (original proposed Final Class Action Approval Order). ERC submits the instant motion to assure that the Court is fully apprised of the facts surrounding this settlement, which facts support the Court's final approval.